

ORDINANCE 35 - 2010

AN ORDINANCE AMENDING THE CITY OF READING CODIFIED
ORDINANCES CHAPTER 25 TREES, PART 25-104 ADMINISTRATION,
SECTION 5 C BY MODIFYING THE REMOVAL PROCESS FOR MEMBERS
OF THE SHADE TREE COMMISSION

NOW, THEREFORE, THE COUNCIL OF THE CITY OF READING HEREBY
ORDAINS AS FOLLOWS:

SECTION 1. Amending the City of Reading Codified Ordinances Chapter 25, Trees,
Part 25-104, Section 5 C by modifying the removal process for members of the Shade
Tree Commission as follows:

Removal of Members - Any member may be removed for misconduct
or neglect of duty or for other just cause by a majority vote of Council
taken after the member has received fifteen days advance notice of the
intent to take such vote. Failure of a member to attend three (3)
consecutive regular meetings of the Board will constitute grounds for
immediate removal from the Board by City Council. Failure of a
member to attend at least 50% of the regular meetings of the Board in a
calendar year will constitute grounds for immediate removal from the
Board by City Council. The Chairperson of the Board shall inform the
City Clerk in writing when a member has failed to comply with this
attendance policy. Following such notification, City Council may vote
to remove the member and seek applicants to fill the vacant position.

SECTION 2. All other parts of the Ordinance remain unchanged.

SECTION 3. This Ordinance shall be effective in ten (10) days, in accordance with
Charter Section 219.

Adopted

Dec 2, 2010


Council President

Attest:


City Clerk

I, LINDA A. KELLEHER, City Clerk of the City
of Reading, Pa., do hereby certify, that the fore-
going is a true and correct copy of the original
passed by the Council of the City of
Reading, on the 26 day of Dec
A. D. 2010. Witness my hand and seal of the
said City this 29 day of Dec A. D. 2010.

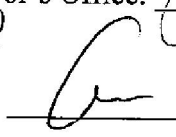
CITY CLERK

Submitted to Mayor: 

Date: 7/27/10

Received by the Mayor's Office: 

Date: 7/27/10

Approved by Mayor: 

Date: 7/27/10

Vetoed by Mayor: _____

Date: _____

1 Regulation by City - see Third Class City Code, §2403(18), 53 P.S. §37403(18).
Shade Tree Commission - see Third Class City Code, §3801 *et seq.*, 53 P.S. §38801 *et seq.*

Payment for Trees by Property Owner - see Third Class City Code, §3807, 53 P.S. §38807.

Maintenance by City - see Third Class City Code, §3809, 53 P.S. §38809.

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PART 1 SHADE TREES

§25-101. Title and Short Title.

1. This Part shall be known and may be cited as the "Reading City Shade Tree Ordinance" hereinafter referred to by short title as the "Shade Tree Ordinance."
2. The official map on file in the planning Division is hereby declared to be a part of this Part and shall be known, and may be cited, as the "Reading City Master Shade Tree Plan Map" hereinafter referred to by short title as the "Shade Tree Map." [Ord. 14-2001] (Ord. 42-1973, 9/12/1973, Art. I; as amended by Ord. 14-2001, 5/29/2001)

§25-102. Purposes.

The purposes of this Part are as follows and they shall be liberally construed to promote and advance the general welfare of the City:

- A. To guide and regulate the orderly growth and development of vegetation on or near public areas in accordance with the Shade Tree Map and with long term objectives, principles and standards deemed beneficial to the interest and welfare of the people of the City.
- B. To protect the character and the social and economic value of both private and public property.
- C. To preserve and enhance the visual character and natural beauty of the City.
- D. To restore, insofar as is possible, a healthy natural environment including but not limited to photosynthesis, underground water stability, surface runoff stability, the reduction of noise, the filtration of pollutants, such as ozone, sulfur dioxide particulate matter, etc., and the propagation of animal life.
(Ord. 42-1973, 9/12/1973, Art. II)

§25-103. Definitions.

1. **Intent.** For the purposes of this Part, all words used in the present tense include future tense and all words used in the future tense include present tense. All words in the plural number include the singular number and all words in the singular number include the plural number, unless the natural construction of the sentence dictates otherwise. The word "shall" is mandatory and not directory. The word "located" includes "designed, intended or arranged to be located."

2. Specific Words and Phrases Defined.

CARTWAY - that portion of the right of way located between curblines.

CITY - the City of Reading.

COMMISSION - the Shade Tree Commission of the City of Reading.

COMMISSIONER - a member of the Shade Tree Commission.

COUNCIL - the governing body of the City of Reading.

CURBLINES - the lines in the right of way, constructed or proposed, which separate the portion of the public right of way dedicated to vehicular traffic from that portion dedicated to pedestrian traffic. The official City map on file in the office of the City Engineer shall be the final authority on the location of curblines should a dispute arise.

DIRECTOR OF FINANCE - the Director of Finance of the City of Reading. [Ord. 14-2001]

PEDESTRIAN WAY - that portion of the public right-of-way which exists between the curblines and the property line.

PERMIT, SHADE TREE - a certificate issued by the Shade Tree Commission Council or its designee for the planting, transplanting, cutting, trimming or removal of any shade tree governed by the provisions of this Part, or for the fastening of any sign, wire, rope or other materials to, around or through any tree, or for the deposition, placement, storage or maintenance of any stone, brick, sand, concrete or other material which might impede the free passage of water, air or fertilizer to the roots of any tree governed by the provisions of this Part. In this Part, when the word "permit" appears alone, the word shall be construed to mean shade tree permit.

PERMIT, SIDEWALK - a certificate issued by Council or its designee for the construction, reconstruction, modification or removal of any sidewalk governed by the provisions of the Reading City Sidewalk Ordinance [Chapter 21, Part 5]. ~~Council, may, at its option, allow a sidewalk modification under the shade tree permit, insofar as such sidewalk modification is necessary for the planting, transplanting, removal or protection of any tree governed by the provisions of this Part. — Move to NEW Section 917.21~~

PERSON - any individual, firm, association, company or corporation, public or private.

PROPERTY LINE - any of the lines forming the front, rear and sides of lots as described in the recorded title.

PUBLIC AREA - any public right of way, park or other publicly owned property.

PUBLIC RIGHT-OF-WAY - the total width of any land reserved or dedicated to the public use including any street but not including alleys or utility easements. Streets may be commonly known as boulevards, highway, places, terraces, avenues or other similar terms. The official topographic survey map of Reading, Pennsylvania, on file in the office

of the Director of Public Works shall be the final authoritative document should the existence of any street, dedicated or not be disputed. [Ord. 14-2001]

SHADE TREE - any tree located in the front or street-view of any public area, herein defined, or which at maturity would protrude into a public area, or to any tree located on property of special interest to the City by right of the Zoning Ordinance [Chapter 27] or any other ordinance.

SHADE TREE ADMINISTRATIVE OFFICER - the person or persons charged by Council with the enforcement of this Part.

STREET LINE - the street line is that line determining the limit of vehicular right, either existing or contemplated, in a public right of way. Specifically, the street line is that line separating the cartway from the pedestrian way. The street line may also be referred to as the curb line. (Ord. 42-1973, 9/12/1973, Art. III)

§25-104. Administration.

1. **Enforcement.** The provisions of this Part shall be administered and enforced by the Shade Tree Administrative Officer or officers of the City who shall be appointed by the Mayor subject to the approval of Council. It shall be the duty of the Shade Tree Administrative Officer or officers to cause any premises to be inspected or examined and to order in writing the remedying of any conditions found to exist in violation of any provisions of this Part and to issue permits in accordance with this Part.

2. Relief from Personal Responsibility.

A. The Shade Tree Administrative Officer, or any employee charged with the enforcement of this Part, while acting for the City, shall not thereby render himself personally liable, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit instituted against any officer or employee because of an act performed by him in the lawful discharge of his duties shall be defended by the legal representative of the City.

B. In no case shall the Shade Tree Administrative Officer be liable for costs in any action or suit or proceeding that may be instituted in pursuance of the provisions of this Part when he and/or his subordinates perform their duties in good faith and without malice.

3. **Permits.** In no case shall a shade tree permit be issued for planting, transplanting, cutting, trimming or removing any tree or for the fastening of any sign, wire, rope or other materials to, around, or through any shade tree where such activity would be in violation of any provision of this Part.

A. **When a Permit is Required.** No person shall plant, transplant, cut, trim or remove any shade tree, nor shall they cause to be planted, transplanted, cut, trimmed or removed, any shade tree without first obtaining a permit to do so. Nor shall any person fasten, or cause to be fastened, any sign, wire, rope or other materials, to, around or through any shade tree without first obtaining a permit to do so. Nor shall any person deposit, place, store or maintain any stone, brick, sand, concrete or other material which may impede the free passage of water, air or fertilizer to the roots of any shade tree without first obtaining

a permit to do so. Nor shall any person break, injure, mutilate, kill or in any other way harm any shade tree, nor move any building or other object on or over any public street or public right-of-way in such a manner as to damage or injure any shade tree without first obtaining a permit to do so.

B. Conditions Attached to Permits. As a condition to any permit to remove any shade tree, the City may require that the applicant plant, at his own expense, another tree in place of the one removed. The Shade Tree Commission in such case shall direct the type, size and location of the tree to be planted and the time within which the work shall be done. As a condition to any permit to move any building or object on or over any public street or other public right of way, the City may require the applicant to furnish bond in an amount sufficient to cover any damage or injury to any shade tree caused by the applicant or his agent(s) and it may direct the route of any such moving so as to minimize damage or injury to shade trees.

C. Who Shall Apply. The application for a shade tree permit shall be made by the owner or lessee, or the agent of either, of the real estate on which such tree is located or, if such tree is located on a public right-of-way, the application shall be made by the owner or lessee, or the agent of either, of the real estate nearest the tree. This provision may be waived by the Commission when the work is done at the direction of, and carried out by a City agency in behalf of, the Commission.

D. Revocation of Permit. The Shade Tree Administrative Officer may revoke a permit or approval issued under the provisions of this Part in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

E. Nullification of Permit. Any permit issued in conflict with the provisions of this Part shall be null and void and may not be construed as waiving any provision of this Part.

F. Form of Permit Application. The permit application shall be on a form prepared by the Commission.

G. Fees. The fee for the shade tree permit, if any is deemed necessary, shall be set by resolution of Council.

4. Records.

A. It shall be the duty of the Shade Tree Administrative Officer to keep a record of all applications for shade tree permits and a record of all permits issued. He shall file and safely keep copies of all plans submitted and these shall form part of the records of his office.

B. The Officer shall prepare a quarterly report for Council summarizing for the period since his last previous report all shade tree permits issued and all complaints of violation and the action taken by him consequent thereon.

C. The Shade Tree Commission shall annually report in full to Council, at Council's first stated meeting in October, its transactions and expenses for the last fiscal year of the City.

5. Shade Tree Commission.

A. Membership. The Shade Tree Commission is hereby created. Unless otherwise specified, the word Commission when used in this Part shall be construed to mean the Shade Tree Commission of the City of Reading. The Commission shall be composed of not fewer than three nor more than seven residents of the City appointed by resolution of Council upon the recommendation of the Mayor. One Commissioner shall serve for a term of 3 years, one for a term of 4 years and one for a term of 5 years on a Commission of only three residents. If the Commission consists of more than three members, the time sequence provided for a three member commission shall be repeated. On the expiration of the term of any Commissioner, a successor shall be appointed to serve for a term of 5 years. The Commission shall notify Council promptly of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term.
[Ord. 8-1976]

B. Organization. The Commission shall elect from its own membership a chairman, vice-chairman and secretary who shall serve annual terms and who may succeed themselves. For the conduct of any meeting and the taking of any action, a quorum shall be not less than a majority of the Commission as a whole. The Commission shall keep full public records of its business and shall submit a report of its activities to Council at least once a year.

C. Removal of Members. ~~Any Commission member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of Council taken after the member has received fifteen days advance notice of the intent to take such vote. Any member may be removed for misconduct or neglect of duty or for other just cause by a majority vote of Council taken after the member has received fifteen days advance notice of the intent to take such vote.~~ *Failure of a member to attend three (3) consecutive regular meetings of the Board will constitute grounds for immediate removal from the Board by City Council. Failure of a member to attend at least 50% of the regular meetings of the Board in a calendar year will constitute grounds for immediate removal from the Board by City Council. The Chairperson of the Board shall inform the City Clerk in writing when a member has failed to comply with this attendance policy. Following such notification, City Council may vote to remove the member and seek applicants to fill the vacant position.*

D. Expenditures for Services. Within the limits of funds appropriated by Council, the Commission may employ or contract for secretaries, clerks, legal counsel, consultants and other technical assistance. Members shall serve without compensation except that Council may reimburse Commission members for expenses incurred in the performance of their duties.

E. Notification that Work is to be Performed. Whenever the Commission proposes to plant, transplant or remove shade trees, notice of the time and place of the meeting at which such work is to be considered shall be given in at least one newspaper of general circulation within the City once each week for 2 weeks immediately preceding the time of the meeting, as provided by law. Such notice shall specify in detail the street(s) or other public area(s) or portions thereof upon which trees are proposed to be so planted, transplanted or removed. Any property owners directly affected by such planting, transplanting or removal shall be notified by mail of such meeting at least 1 week prior to the meeting.

(Ord. 42-1973, 9/12/1973, Art. IV; as amended by Ord. 8-1976, 2/18/1976, §1)

§25-105. General Regulations.

1. **Advice to Council.** Council shall consider the advice of the Shade Tree Commission on all matters concerning the application of this Part; thirty days time shall be allowed for the Commission to report to Council. The Commission shall carry out any duties and responsibilities conferred upon it by Council including those herein conferred.

2. **Commission Authority.** The Shade Tree Commission may plant, remove, maintain and protect such shade trees. The Commission may require the planting or replanting of any shade tree and may direct the size and species as well as the alignment and location of such trees except that the alignment and location of any shade tree shall not prevent necessary and reasonable conduct of business or use of the streets, sidewalks or abutting property. The Commission may designate suitable persons in the employ of the City to aid it in its functions. *[Ord. 68-1995]*

3. **Dead or Hazardous Trees.** Should any shade tree die or in any other manner present a hazard to the public, it shall be declared a public nuisance by the Shade Tree Commission and the elimination of the hazard or the tree shall be effected pursuant to subsection (7). Notification to the Commission that a hazardous condition exists shall be the responsibility of the owner of the property upon which the hazard exists except that if the hazardous condition exists on a public right of way such notification shall be the responsibility of the owner of the property nearest such hazardous condition. Failure to so notify the Commission, in writing, shall subject the person charged with the responsibility for notifying the Commission to liability for any damages attributable to such hazard. *[Ord. 68-1995]*

4. Responsibility for Costs.

A. The cost of furnishing, planting, transplanting or removing any shade tree(s) or the necessary suitable guards, curbing or grading for the protection thereof, and the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work, shall be paid by the owner of the property on which such tree(s) are located or, if located in a public right-of-way, by the owner of the property nearest such tree(s).

B. Upon the filing of such certificate with Council, the City Clerk shall cause 30 days written notice to be given by certified mail to the persons against whose property an assessment has been made. The notice shall state the amount of the assessment and theorize and place of payment, and shall be accompanied by a copy of the certificate. The expense of such notice shall be borne by the City.

C. The amount assessed against the real estate shall be a lien from the time of the filing of the certificate with Council and, if not paid within the time stipulated, a claim may be filed and collected in the same manner as municipal claims are filed and collected. *[Ord. 68-1995]*

5. **Damage to Shade Trees.** Should any shade tree be damaged by any person, the City may charge the person causing such damage for repairs to the tree and/or its devaluation. Should any shade tree be destroyed by any person, the City may charge the person causing such destruction for the appraised value of the tree plus the cost of its removal and replacement. Should any shade tree be damaged or felled by storm or other natural

occurrence, such tree shall be repaired or removed, including stump, by the owner of the property on which the tree stands or stood, or, if located on a public right-of-way, by the owner of the property nearest the point at which the tree stands or stood. Replacement of such tree shall be made at the discretion of the Shade Tree Commission and at the expense of the owner of the property on which the tree is located, or, if located on a public right of way, at the expense of the owner of the property nearest such tree.
[Ord. 68-1995]

6. Shade Trees as Obstructions. The City shall trim branches from any shade tree overhanging a public right-of-way so that such tree(s) shall not obstruct light from any street light or traffic light, signal or sign, and so that it shall not obstruct the free passage of pedestrian or vehicular traffic over the cartway. It shall be the responsibility of the property owner nearest the shade tree to ensure that such tree does not obstruct the free passage of persons on the pedestrian way.

7. Shade Trees as Public Nuisances. Any shade tree that, in the opinion of the Shade Tree Commission, endangers the life, health, safety or property of the public, or which is afflicted with any contagious disease or insect infestation shall be declared a public nuisance by the Commission, except that when such shade tree presents a clear and present danger to the life, health, safety or property of the public, such declaration may be made by Council, the Chief Building Inspector or the Parks Administrator. The owner of the property on which such tree is located or, if located on a public right of way, the owner of the property nearest the tree shall be notified in writing of the existence of the nuisance and be given reasonable time to effect abatement of such nuisance or removal of such tree at his own expense. If the owner does not effect such abatement or removal of the nuisance within the time specified in the notification, the City shall cause the nuisance to be corrected or removed and the cost thereof shall be assessed to the owner as provided by law. [Ord. 68-95]

8. Tree Specifications.

A. The Shade Tree Commission shall plant, or permit to be planted, only those tree species on the approved list on file with the Commission. No tree shall be planted less than 25 feet from a curb intersection of any street or alley or less than 15 feet from any fire hydrant. No tree shall be planted less than five feet from any sewer, water, gas, electric or other line or conduit, except as permitted by the City.

B. The center of all newly planted trees shall be not less than 24 inches from the curblane. An area, open or with tiles, bricks or other materials which allows sufficient passage of air, water and fertilizer, shall be provided around the base of each shade tree; this area shall be not less than 15 square feet. The Commission may, whenever it deems necessary, waive the provisions of this Section.

9. Maintenance by City; Tax Levy.

A. The City may prune any branch that is an obstruction in the cartway. It is the responsibility of the owner of the property nearest the tree to maintain and secure the tree pit, sidewalk and prune the rest of the tree making certain no hazardous conditions exist.

B. The needed amount for City pruning shall each year be certified by the Shade Tree Commission to Council in time for inclusion in the proposed budget ordinance, and the

funds provided by Council shall be drawn against, as required by the Commission, in the same manner as money appropriated for City purposes. The Commission may accept and expend contributions to achieve the purposes of this Part.

C. Council may levy a special tax, not to exceed the sum of 1/10 mill on the dollar of the assessed valuation of the property in the City, for the purpose of defraying the cost and expenses incurred by the Commission in the execution of its duties, or it may provide for such expenses by appropriations.

D. It is the responsibility of the owner of the property nearest the shade tree pit to cap empty tree pits and maintain the sidewalk around the tree pit according to the sidewalk standards established by the Department of Public Works. [Ord. 14-2001]
[Ord. 68-1995] (Ord. 42-1973, 9/12/1973, Art. V; as amended by Ord. 68-1995, 7/26/1995, §II; and by Ord. 14-2001, 5/29/2001)

E. The property owner shall be responsible for the maintenance, pruning, replacement, and removal of any shade tree located in the front or street-view area of the property.

F. The Public Works Director may issue a sidewalk modification permit under the Shade Tree Permit, insofar as such sidewalk modification (construction, reconstruction, modification or removal) is necessary for the planting, transplanting, removal or protection of any tree governed by provisions of this article.

§25-106. Authority for Ordinance.

This Part is enacted pursuant to the provisions of the Third Class City Code of the Commonwealth of Pennsylvania.
(Ord. 42-1973, 9/12/1973, Art. 600)

§25-107. Interpretation.

All standards set forth in this Part are to be interpreted as minimum standards required. Nothing herein contained shall be construed to prohibit or prevent the use of higher standards.
(Ord. 42-1973, 9/12/1973, Art. 700)

§25-108. Conflict with Other Laws.

Should any provision set forth in this Part be found to conflict with any law of the United States or of the Commonwealth of Pennsylvania, such Federal and/or State laws shall govern and this Part shall be construed accordingly. Such conflict shall not affect the validity of this Part. (Ord. 42-1973, 9/12/1973, Art. 800)

§25-109. Violations and Penalties.

1. **Notice of Violation.** The Shade Tree Administrative Officer shall serve a notice of violation of the person in violation of this Part or of a plan approved thereunder or in violation of a permit or certificate issued under the provisions of this Part. Such notice shall direct the abatement of such violation.

2. **Prosecution of Violation.** If the violation is not abated within the time specified in the notice of violation, the Officer may request the City Solicitor to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation.

3. Penalties.

A. Penalties. Any person, firm or corporation who shall violate any provision of this Part or who shall fail to comply with any of the requirements thereof or who shall conduct activities in violation of a permit issued under the provisions of this Part, or who shall, without having applied for and received an approved permit, conduct activities for which a permit is required under the terms of this Part, who shall willfully, maliciously or negligently destroy or injure any shade trees shall be, upon conviction thereof, sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs to a term of imprisonment not to exceed 30 days. Each day that a violation continues shall be deemed a separate offense. [*Ord. 14-2001*]

B. Disposition of Penalties or Assessments. All penalties or assessments imposed under this Part shall be paid to the City Treasurer, to be placed to the credit of the Shade Tree Commission, subject to be drawn upon by the Commission for the purposes authorized in this Part.

(*Ord. 42-1973, 9/12/1973, Art. IX; as amended by Ord. 32-1983, 8/24/1983, §1; and by Ord. 14-2001, 5/29/2001*)

§25-110. Amendments.

Council may, from time to time after public notice and hearing, amend, change or supplement the regulations herein established. Notice shall be published in a newspaper of general circulation within the City at least 14 calendar days in advance of any public hearing. Such notice shall state the time and place of the hearing and shall contain either the full text of the amendment or supplement of a brief summary thereof, and reference to a place within the City where copies of the proposed amendment or supplement may be examined. (*Ord. 42-1973, 9/12/1973, Art. X*)